

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**July 29, 2014**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2013AP1889-CR**

**Cir. Ct. No. 1991CF912506**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**JOHN ROBERT CHIC,**

**DEFENDANT-APPELLANT.**

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APPEAL from orders of the circuit court for Milwaukee County:  
JEFFREY A. CONEN, Judge. *Affirmed.*

Before Curley, P.J., Fine and Brennan, JJ.

¶1 PER CURIAM. John Robert Chic, *pro se*, appeals an order denying his motion to declare void an amended judgment of conviction entered July 14, 2011, and to expunge it from his record. He also appeals an order denying his motion for reconsideration. Chic argues that the circuit court should have granted

his motion because the clerk of circuit court did not have authority to amend the original judgment of conviction without first obtaining the permission of the circuit court. We affirm.

¶2 Chic was convicted in 1992 in two separate judgments of first-degree sexual assault and attempted first-degree sexual assault, both with the threat of use of a dangerous weapon. Chic was sentenced to fifteen years of imprisonment on the first count. The circuit court imposed and stayed a consecutive eight-year sentence on the second count and placed Chic on probation for seven years. The sentencing transcript shows that the court ordered the probation to be served consecutively, but the original judgment of conviction did not designate the probation term as consecutive or concurrent.

¶3 The clerk of circuit court amended the judgment of conviction to reflect that the probation term was consecutive on July 14, 2011. In 2013, Chic moved to declare the amended judgment of conviction void and expunge it from the record, arguing that the clerk of circuit court did not have authority to amend the judgment of conviction absent direction to do so from the circuit court. The circuit court denied Chic's motion, agreeing that the clerk should not have amended the judgment of conviction, but then entering an order amending the judgment of conviction in exactly the same manner *nunc pro tunc* to July 14, 2011.

¶4 Chic contends that the judgment of conviction should be declared void and expunged from his record. The circuit court agreed with Chic that the clerk of circuit court should not have unilaterally amended the judgment of conviction, as do we. As explained in *State v. Prihoda*, 2000 WI 123, ¶26, 239 Wis. 2d 244, 618 N.W.2d 857: "[T]he office of a clerk of circuit court may not

correct a clerical error in the sentence portion of a written judgment of conviction independent of the circuit court.” The problem with Chic’s argument on appeal is that Chic wants a remedy to which he is not entitled. Here, the circuit court corrected the error by entering a new amended judgment of conviction effective retroactively on July 14, 2011. This is exactly what the circuit court was directed to do in *Prihoda*. *Id.*, ¶27. Chic is not entitled to have the judgment of conviction declared void and expunged from his record.

¶5 Chic next argues that the amended judgment of conviction violated his right to confrontation under the Sixth Amendment. The right to confrontation is not implicated by the circuit court’s action because the right to confrontation concerns the right of a defendant to confront *the witnesses against him* in a criminal prosecution, which is not applicable here. See *State v. Yang*, 2006 WI App 48, ¶10, 290 Wis.2d 235, 712 N.W.2d 400. Chic also contends that the amended judgment of conviction violated his constitutional right to equal protection. We agree with the State that this argument is unavailing because “[t]he right to equal protection comes into play when similarly situated persons are treated differently ... and Chic has not shown that he has been treated differently from anyone else.”

*By the Court.*—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2011-12).

